

## Rural Housing Service, USDA

## § 3565.204

(c) Has the ability and experience to meet the property management requirements established by the Agency, the lender, and the loan agreement.

### § 3565.154 Previous participation in state and federal programs.

Loans to borrowers who are delinquent on a federal debt may not be guaranteed. Furthermore, borrowers or principals thereof who have defaulted on state or local government loans will not be eligible for a guarantee unless the Agency determines that the default was beyond the borrower's control, and that the identifiable reasons for the default no longer exist. At the time of application, the lender must obtain from the borrower a certification that the borrower is not under any state or federal order suspending or debarring participation in state or federal loan programs and that the borrower is not delinquent on any non-tax obligation to the United States.

### § 3565.155 Identity of interest.

At the time of application, the lender must certify that it has disclosed any and all identity of interest relationships and preexisting conditions with respect to its relationships and that of the borrower, or that no identity of interest relationships exists. Identity of interest relationships include any financial or other relationship that exists or will exist between a lender, borrower, management agent, supplier, or any agent of any of these entities, that could influence, give the appearance of influencing or have the potential to influence the actions of the parties in carrying out their responsibilities under the program. Disclosure will be in a form and manner established by the Agency.

### § 3565.156 Certification of compliance with federal, state, and local laws and with Agency requirements.

At the time of application, the lender must obtain from the borrower a certification of compliance with all applicable federal, state, and local laws, and with Agency requirements regarding discrimination and equal opportunity in housing, including title VIII of the Civil Rights Act of 1968, and the Fair Housing Amendments Act of 1988. The

borrower must also certify that it is not the subject of any federal, state, or local sanction or punitive action.

### §§ 3565.157–3565.199 [Reserved]

### § 3565.200 OMB control number.

According to the Paperwork Reduction Act of 1995, no party is required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0174.

## Subpart E—Loan Requirements

### § 3565.201 General.

To be eligible for a guarantee, a loan must comply with the provisions of this subpart and be originated by an approved lender.

### § 3565.202 Tenant eligibility.

(a) *Limits on income of tenants.* The housing units subject to a guaranteed loan must be available for occupancy only by low or moderate-income families or individuals whose incomes at the time of initial occupancy do not exceed 115 percent of the area median income. After initial occupancy, a tenant's income may exceed these limits.

(b) *Citizenship status.* A tenant must be a United States citizen or a noncitizen who is a qualified alien as defined in § 3565.3.

### § 3565.203 Restrictions on rents.

The rent for any individual housing unit, including any tenant-paid utilities, must not exceed an amount equal to 30 percent of 115 percent of area median income, adjusted for family size. In addition, on an annual basis, the average rent for a project, taking into account all individual unit rents, must not exceed 30 percent of 100 percent of area median income, adjusted for family size.

### § 3565.204 Maximum loan amount.

(a) *Section 207(c) limits and exceptions.* For that part of the property that is attributable to dwelling use, the principal obligation of each guaranteed loan must not exceed the applicable maximum per-unit limitations under

section 207(c) of the National Housing Act.

(b) *Loan-to-value limits.* (1) In the case of a borrower that is a nonprofit organization or an agency or body of any State, local or tribal government, each guaranteed loan must involve a principal obligation that does not exceed the lesser of 97 percent of:

(i) The development costs of the housing and related facilities, or

(ii) The lender's determination of value not to exceed the appraised value of the housing and facilities.

(2) In the case of a borrower that is a for-profit entity or other entity not referred to in paragraph (b)(1) of this section, each guaranteed loan must involve a principal obligation that does not exceed the lesser of 90 percent of:

(i) The development costs of the housing and related facilities, or

(ii) The lender's determination of value not to exceed the appraised value of the housing and facilities.

(3) To protect the interest of the Agency or to further the objectives of the program, the Agency may establish lower loan-to-value limits or further restrict the statutory maximum limits based upon its evaluation of the credit quality of the loan.

(c) *Necessary assistance review.* (1) A lender requesting a loan guarantee must review all loans to determine the appropriate amount of assistance necessary to complete and maintain the project. The lender shall recommend to the Agency an adjustment in the loan amount if appropriate as a result of this review.

(2) Where the project financing combines a guaranteed loan with Low-Income Housing Tax Credits or other Federal assistance, the project must conform to the policies regarding necessary assistance in 7 CFR part 1944, subpart E or successor provision.

EFFECTIVE DATE NOTE: At 69 FR 69176, Nov. 26, 2004, § 3565.204 was amended in paragraph (c)(2) by removing the words "part 1944, subpart E" and by adding in its place the word "3560.63 (d)", effective Feb. 24, 2005.

**§ 3565.205 Eligible uses of loan proceeds.**

Eligible uses of loan proceeds must conform with standards and conditions for housing and facilities contained in 7

CFR part 1924, subpart A or successor provision, except that the Agency, at its sole discretion, may approve, in advance, a higher level of amenities, construction, and fees for projects proposed for a guaranteed loan provided the costs and features are reasonable and customary for similar housing in the market area.

(a) *Use of loan proceeds.* The proceeds of a guaranteed loan may be used for the following purposes relating to the project.

(1) New construction costs of the project;

(2) Moderate or substantial rehabilitation of buildings and acquisition costs when related to the rehabilitation of a building as described in paragraph (b) of this section;

(3) Acquisition of existing buildings, when approved by the Agency, for projects that serve a special housing need;

(4) Acquisition and improvement of land on which housing will be located;

(5) Development of on-site and off-site improvements essential to the use of the property;

(6) Development of related facilities such as community space, recreation, storage or maintenance structures, except that any high cost recreational facility, such as swimming pools and exercise clubs or similar facilities, must be specifically approved in advance by the Agency;

(7) Construction of on-site management or maintenance offices and living quarters for operating personnel for the property being financed;

(8) Purchase and installation of appliances and certain approved decorating items, such as window blinds, shades, or wallpaper;

(9) Development of the surrounding grounds, including parking, signs, landscaping and fencing;

(10) Costs associated with commercial space provided that:

(i) The project is designed primarily for residential use;

(ii) The commercial use consists of essential tenant service type facilities, such as laundry rooms, that are not otherwise conveniently available;

(iii) The commercial space does not exceed 10 percent of the gross floor